

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-13, 15-25, and 27-36 are pending in the present application, Claims 1, 13, 25, and 28 having been amended, and Claims 2, 14, and 26 having been canceled without prejudice or disclaimer. Support for the amendments to independent Claims 1, 13, and 25 is found, for example, in Applicant's Figs. 10 and 19-22. The amendment to Claim 28 corrects a minor informality. Applicant respectfully submits that no new matter is added.

In the outstanding Office Action, Claims 1-3, 5-15, 17-27, and 29-36 were rejected under 35 U.S.C. §103(a) as unpatentable over Babu et al. (U.S. Patent No. 6,122,639, hereinafter Babu); and Claims 4, 16, and 28 were rejected under 35 U.S.C. §103(a) as unpatentable over Babu in view of Brunemann et al. (U.S. Patent No. 6,487,717, hereinafter Brunemann).

Applicant thanks the Examiners for the courtesy of an interview extended to Applicant's representative on August 13, 2008. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the interview are reiterated below.

Applicant respectfully submits that the amendment to Claim 1 overcomes the outstanding grounds of rejection. Amended Claim 1 recites, *inter alia*,

retrieving by the monitoring computer, from a first memory external to the monitoring computer and different than the monitored device, information for accessing the monitored device using at least one communication protocol supported by the monitored device, wherein the first memory is organized according to the plurality of communication protocols, and the plurality of communication protocols are associated with corresponding information for accessing the monitored device...[and]

selecting by the monitoring computer a communication protocol among the plurality of communication protocols to be used by the monitoring computer to access the monitored device based on status information that may be obtained by each of the plurality of communication protocols, the monitored device being configured to process two or more of the plurality of communication protocols useable by the monitoring computer to access the monitored device.

Babu does not disclose or suggest these elements of amended Claim 1.

With respect to the “retrieving,” the Office Action refers to col. 7, lines 35-37 of Babu. This section of Babu describes how collection engine 20 queries device 118 with an SNMP query. However, amended Claim 1 describes retrieving information from a first memory that is different than the monitored device. Device 118 of Babu is a monitored device and cannot be the claimed “first memory.”

Also, page 4 of the outstanding Office Action refers to database 40 and MIB 50 of Babu.<sup>1</sup> Babu does not disclose or suggest that database 40 or MIB 50 is organized according to the plurality of communication protocols, and the plurality of communication protocols are associated with corresponding information for accessing the monitored device. Babu only describes using SNMP to communicate between the collection engine and the network devices being monitored.

HTTP is used in Babu for communications between the network management server and a client.<sup>2</sup> The network devices use Ethernet, Token Ring, and other protocols to communicate amongst themselves.<sup>3</sup>

While the Office appears to take the position that HTTP, SNMP, Ethernet and Token Ring are interchangeable, this is not the case. A person of ordinary skill in the art knows that HTTP and SNMP are not equal with Ethernet and Token Ring because they operate at

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<sup>1</sup> Office Action, page 4, referring to col. 6, lines 48-64 of Babu.

<sup>2</sup> Babu, Fig. 1.

<sup>3</sup> Babu, col. 6, lines 34-38.

different layers of the OSI model. Ethernet and Token Ring operate at a lower layer of the OSI model, while HTTP and SNMP operate at the application layer. Thus, Ethernet and Token Ring are not interchangeable with HTTP or SNMP.

Furthermore, Babu only describes using SNMP to communicate between the collection engine and the network devices being monitored. There is no disclosure or suggestion in Babu to use anything other than SNMP to do monitoring.

Furthermore, there is no disclosure or suggestion that a plurality of communication protocols are used to organize a “first memory.”

With respect to the claimed “selecting,” the Office Action refers to Col. 6, lines 34-40 of Babu. This section does not disclose or suggest the claimed “selecting” step as amended.

Babu only uses SNMP to communicate between the collection engine 20 and network device 118. HTTP, or FTP protocols are not used by the collection engine 20 to communicate with network device 18.<sup>4</sup> The collection engine does not perform a step of selecting SNMP from among SNMP, HTTP, and FTP (or other plurality of communication protocols). Thus, there is no selection of a communication protocol from a plurality of communication protocols to be used by the monitoring computer to access the monitored device “based on status information that may be obtained by each of the plurality of communication protocols.”

Furthermore, the network devices 118 are only configured to use SNMP to communicate with the collection engine. Ethernet and Token Ring protocols are only used to communicate between the different network devices 118.<sup>5</sup> Thus, there are no “plurality of communication protocols to be used by the monitoring computer to access the monitored device” and no “monitored device being configured to process two or more of the plurality of

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<sup>4</sup> See, *supra*.

<sup>5</sup> See, *supra*.

communication protocols useable by the monitoring computer to access the monitored device” in Babu.

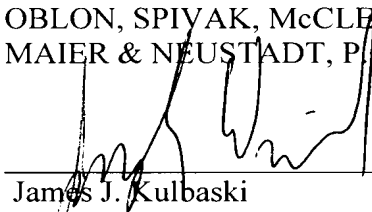
In view of the above-noted distinctions, Applicant respectfully submits that Claim 1 (and any claims dependent thereon) patentably distinguish over Babu. Claims 13 and 25, although of different statutory classes, recite elements analogous to those of Claim 1. Applicant respectfully submits that Claims 13 and 25 (and any claims dependent thereon) patentably distinguish over Babu, for at least the reasons stated for Claim 1.

Addressing each of the further rejections, each of the further rejections is also traversed by the present response as no teachings in any of the further cited references to Brunemann can overcome the above-noted deficiencies of Babu. Accordingly, it is respectfully requested that those rejections be withdrawn for similar reasons as discussed above.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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